

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

OP.No. 37061 of 2001(K)

PETITIONER:

PRAKASAN,
S/O.KUNJIKANNAN,
ERAVATTOOR VILLAGE,
PERAMBRA P.O., KOZHIKODE.

BY ADV. SRI.P.C.SASIDHARAN
SRI.V.M.KURIAN(JR.)

RESPONDENTS:

1. MOTOR ACCIDENTS CLAIMS TRIBUNAL,
VADAKARA.
2. IBRAHIM, S/O.AMMED,
KELLOTH METHAL HOUSE,
CHERIVANNOOR P.O.,
MEPPAYOOR, KOZHIKODE.
3. RAJAN, S/O.GOPALAN NAIR,
AYYAPPANCHALIL HOUSE,
ERAVATTOOR VILLAGE,
PERAMBRA P.O., KOZHIKODE.

G.P. SMT.R.BINDU
R2 BY ADV. SRI.T.G.RAJENDRAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE AGREEMENT DT.22.1.93 EXECUTED BETWEEN THE PETITIONER & R2.

P2: TRUE COPY OF NOTICE DT.7.7.2000 ISSUED BY SHERISTADAR, M.A.C.T., VADAKARA.

P3: TRUE COPY OF EXECUTION PETITION NO.8/2000 DT.22.6.2000 FILED BEFORE MACT, VADAKARA.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 37061 OF 2001

Dated this the 26th day of March, 2007

JUDGMENT

Petitioner is challenging execution proceedings with steps to arrest him for recovery of an amount of Rs. 7,000/- awarded by the MACT against the petitioner on second respondent's claim. The case of the petitioner is that compensation claim was settled between the petitioner, the registered owner of the vehicle, and the injured, the second respondent herein, vide Ext.P1 agreement and therefore no claim petition is maintainable. If Ext.P1 is a genuine document it is seen that there is acknowledgement of receipt of Rs. 10,000/- towards compensation by the second respondent. Petitioner's case is that pursuant to Ext.P1 and claim petition, criminal case filed in the matter is also withdrawn. Even though O.P. was filed six years back, and stay was granted, second respondent has not filed any counter affidavit accepting or denying Ext.P1. In the circumstances, O.P. is disposed of with direction to the petitioner to file application for setting aside the ex-parte award along with a copy of this judgment before the first

respondent within two months from now. First respondent will take evidence on Ext.P1 and if there is settlement of compensation between petitioner and second respondent, the first respondent will recall the award by setting it aside. On the other hand, if Ext.P1 is not a genuine document or if the petitioner has not paid compensation as claimed, then it is for the first respondent to restore the order and proceed with execution proceedings. Petitioner will produce a copy of this judgment along with application before the first respondent for compliance.

(C.N.RAMACHANDRAN NAIR)
Judge